

47



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,692	09/28/2005	Mario Villena	56290.1501	9301

20529 7590 04/02/2007
 NATH & ASSOCIATES
 112 South West Street
 Alexandria, VA 22314

EXAMINER

VIG, NARESH

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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04/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/536,692

Applicant(s)

VILLENA ET AL.

Examiner

Naresh Vig

Art Unit

3629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 38-47 and 49-69.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



Naresh Vig
Examiner
Art Unit: 3629

Pending claims would be rejected based on the office action mailed 12 January 2007.

In the response received 13 March 2007, applicant has filed a Declaration of Prior Invention under 37 C.F.R. 1.131. In the declaration filed, applicant has provided copy of SQL with the date redacted. Upon review of the declaration and affidavit filed, it is deemed that the declaration filed and the exhibit is not sufficient to claim an earlier priority date, therefore, cited reference Lewis is still deemed to be an applicable prior art.

In the Declaration, applicant acknowledged that the publication date of Lewis article is at least 14 March 2004, and, also provided a copy of Lewis article for some other source with an earlier publication date of 04 March 2004. On page 2 of the affidavit, applicant makes a statement that the patent application was drafted in Summer of 2004. This clearly demonstrates that the application was drafted after the Lewis publication date.

Exhibit of the SQL code does not satisfy the requirements to overcome the claimed earlier priority date. Applicant has hilited Line 89 of the SQL statement which recites "ListingEstimatedPrice" as an data field in the PropertyListings database. This does not teach that the ListingEstimatedPrice is the AVM price as argued by the applicant.

For the reasons given above, applicant's filed Declaration of Prior Invention under 37 CFR 1.131 is not accepted.

In response to applicant's argument that rejection under 35 USC 101 be removed because the database enables a computer to produce useful results. However, applicant's claimed invention is only data. Claimed data is not used by the applicant to prduce results. Therefore, as responded to in the office action mailed 02 March 2007, office maintains rejection under 35 USC 101.

In response to applicant's argument that rejection under 35 USC 112 First Paragraph be removed because the data stored on a storage medium enables a computer to produce useful results. However, applicant's claimed invention is only data. Applicant's claimed invention does not use the data to produce results. Therefore, as responded to in the office action mailed 02 March 2007, office maintains rejection under 35 USC 112 First Paragraph.